Remarks

Claims 1-20 are now pending in this application. Claim 11 is allowed. Claims 1-4, 7, 12, 14, and 17 are rejected. Claims 5, 6, 8-10, 13, 15, 16, and 18-20 are objected to as being dependent upon their respective rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

In accordance with 37 C.F.R. 1.136(a), a one-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated October 1, 2004 for the above-identified patent application from January 1, 2005 through and including February 1, 2005. In accordance with 37 C.F.R. 1.17(a)(1), authorization to charge a deposit account in the amount of $120.00 to cover this extension of time request also is submitted herewith.

The provisional rejection of Claim 1 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1 and 6 in co-pending U.S. Patent Application No. 10/066,532 is respectfully traversed. Claims 1 and 6 of the co-pending U.S. Patent Application have not issued in a U.S. Patent. For at least the reasons given above, Applicants respectfully request that the provisional double patenting rejection of Claim 1 be withdrawn.

The rejection of Claims 1, 3, 4, 7, 12, 14, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Raab et al. (U.S. Patent No. 5,751,967) in view of Hakim (U.S. Patent No. 6,760,748) and Compaq (*Quickspecs Compaq SW5425 Desktop Gigabit Ethernet Switch, at* http://h18002.www1.hp.com/products/quickspecs/10090_div/10090_div.HTML) is respectfully traversed.

Raab et al. describe a system (100) including a routing device (110) that may be used for routing appropriate signals to the remainder of a network (100) via receipt and forwarding of appropriate packets to a fast Ethernet switch (120), a frame switching device (column 4, lines 23-28). The fast Ethernet switch may be any number of commercially available fast Ethernet switches which support the creation of virtual local area networks (VLANs) and which are available from various

manufacturers, such as those conforming to IEEE standard 802.13 or 802.14 (column 4, lines 28-32).

Hakim describes RangeLAN2 7510 Ethernet Access Point (AP) and RangeLAN2 740x PC Card (column 42, line 49 and column 43, line 32). RangeLAN2 7510 Ethernet AP is a transparent bridge between a wired Ethernet port and a wireless radio interface (column 42, lines 50-51). Operating temperature range of RangeLAN2 7510 Ethernet AP is -20 to 60 °C (column 42, lines 50-60). RangeLAN2 740x PC Card is a Type II PCMCIA transceiver that has an operating temperature range of -20 to 60 °C (column 43, lines 32-38).

Compaq describes a Compaq SW5425 Desktop Gigabit Ethernet Switch (page 1). Compaq SW5425 Desktop Gigabit Ethernet Switch operates in an operating environment having a temperature range of 0 to 40 °C (page 4).

Claim 1 recites an Ethernet switch comprising "a plurality of ports, said switch configured to be operable within a temperature range of at least between approximately 0° C and approximately 60° C, said switch further configured to be operable within a non-condensing humidity range of at least between approximately 10% and approximately 95%, said switch further configured to support at least one of a Virtual Local Area Network (VLAN), a Quality of Service (QoS), a Remote Monitoring (RMON), and a Spanning Tree."

None of Raab et al., Hakim, or Compaq, considered alone or in combination, describe or suggest an Ethernet switch as recited in Claim 1. Specifically, none of Raab et al., Hakim, or Compaq, considered alone or in combination, describe or suggest an Ethernet switch configured to be operable within a temperature range of at least between approximately 0° C and approximately 60° C. Rather, Raab et al. describe a fast Ethernet switch that may be any number of commercially available fast Ethernet switches which support the creation of VLANs and which are available from various manufacturers, such as those conforming to IEEE standard 802.13 or 802.14. Hakim describes RangeLAN2 7510 Ethernet AP, which is a transparent bridge between a wired Ethernet port and a wireless radio interface and has an operating temperature range of -20 to 60 °C. Hakim also describes Range LAN2 740x PC Card is a Type II PCMCIA, which is a transceiver that has an operating temperature range

of -20 to 60 °C. Accordingly, Hakim, at best, describes a type of access point and a type of transceiver, which is not a switch. Compaq describes a Compaq SW5425 Desktop Gigabit Ethernet Switch that operates in an operating environment having a temperature range of 0 to 40 °C. Accordingly, none of Raab et al., Hakim, or Compaq, considered alone or in combination, describe or suggest an Ethernet switch configured to be operable within a temperature range recited in Claim 1. For the reasons set forth above, Claim 1 is submitted to be patentable over Raab et al. in view of Hakim and Compaq.

Claims 3, 4, and 7 depend from independent Claim 1. When the recitations of Claims 3, 4, and 7 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 3, 4, and 7 likewise are patentable over Raab et al. in view of Hakim and Compaq.

Claim 12 recites an Ethernet network comprising "a first switch; and a plurality of user devices operationally coupled to said first switch such that said first switch transfers data from at least one of said devices to a different one of said devices, said first switch configured to: be operable within a temperature range of at least between approximately 0° C and approximately 60°C; be operable within a non-condensing humidity range of at least between approximately 10% and approximately 95%; and support at least one of a Virtual Local Area Network (VLAN), a Quality of Service (QoS), a Remote Monitoring (RMON), and a Spanning Tree."

None of Raab et al., Hakim, or Compaq, considered alone or in combination, describe or suggest an Ethernet network as recited in Claim 12. Specifically, none of Raab et al., Hakim, or Compaq, considered alone or in combination, describe or suggest an Ethernet network including a first switch configured to be operable within a temperature range of at least between approximately 0° C and approximately 60°C. Rather, Raab et al. describe a fast Ethernet switch that may be any number of commercially available fast Ethernet switches which support the creation of VLANs and which are available from various manufacturers, such as those conforming to IEEE standard 802.13 or 802.14. Hakim describes RangeLAN2 7510 Ethernet AP, which is a transparent bridge between a wired Ethernet port and a wireless radio interface and has an operating temperature range of -20 to 60 °C. Hakim also describes RangeLAN2 740x PC Card is a Type II PCMCIA, which is a transceiver

that has an operating temperature range of -20 to 60 °C. Accordingly, Hakim, at best, describes a type of access point and a type of transceiver, which is not a switch. Compaq describes a Compaq SW5425 Desktop Gigabit Ethernet Switch that operates in an operating environment having a temperature range of 0 to 40 °C. Accordingly, none of Raab et al., Hakim, or Compaq, considered alone or in combination, describe or suggest an Ethernet network including a first switch configured to be operable within a temperature range recited in Claim 12. For the reasons set forth above, Claim 12 is submitted to be patentable over Raab et al. in view of Hakim and Compaq.

Claims 14 and 17 depend from independent Claim 12. When the recitations of Claims 14 and 17 are considered in combination with the recitations of Claim 12, Applicants submit that dependent Claims 14 and 17 likewise are patentable over Raab et al. in view of Hakim and Compaq.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1, 3, 4, 7, 12, 14, and 17 be withdrawn.

The rejection of Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Raab et al. in view of Hakim and Compaq, and further in view of Haddock et al. (U.S. Patent 5,974,467) is respectfully traversed.

Raab et al., Hakim, and Compaq are described above. Haddock et al. describe a switch (100) including multiple ports (105, 110) each coupled via a channel to a filtering/forwarding engine (115) (Figure 1, column 3, lines 48-53). Each channel is capable of supporting a data transfer rate of one gigabit per second in the transmit direction and one gigabit per second in the receive direction, thereby providing 2 gigabit/second full-duplex capability per channel (column 3, lines 57-60).

Claim 2 depends from independent Claim 1 which recites an Ethernet switch comprising "a plurality of ports, said switch configured to be operable within a temperature range of at least between approximately 0° C and approximately 60° C, said switch further configured to be operable within a non-condensing humidity range of at least between approximately 10% and approximately 95%, said switch further

configured to support at least one of a Virtual Local Area Network (VLAN), a Quality of Service (QoS), a Remote Monitoring (RMON), and a Spanning Tree."

None of Raab et al., Hakim, Compaq, or Haddock et al., considered alone or in combination, describe or suggest an Ethernet switch as recited in Claim 1. Specifically, none of Raab et al., Hakim, Compaq, or Haddock et al., considered alone or in combination, describe or suggest an Ethernet switch configured to be operable within a temperature range of at least between approximately 0° C and approximately 60° C. Rather, Raab et al. describe a fast Ethernet switch that may be any number of commercially available fast Ethernet switches which support the creation of VLANs and which are available from various manufacturers, such as those conforming to IEEE standard 802.13 or 802.14. Hakim describes RangeLAN2 7510 Ethernet AP, which is a transparent bridge between a wired Ethernet port and a wireless radio interface and has an operating temperature range of -20 to 60 °C. Hakim also describes RangeLAN2 740x PC Card is a Type II PCMCIA, which is a transceiver that has an operating temperature range of -20 to 60 °C. Accordingly, Hakim, at best, describes a type of access point and a type of transceiver, which is not a switch. Compaq describes a Compaq SW5425 Desktop Gigabit Ethernet Switch that operates in an operating environment having a temperature range of 0 to 40 °C. Haddock et al. describe a switch including multiple ports coupled via a channel capable of supporting a data transfer rate of one gigabit per second in the transmit direction and one gigabit per second in the receive direction. Accordingly, none of Raab et al., Hakim, Compaq, or Haddock et al., considered alone or in combination, describe or suggest an Ethernet switch configured to be operable within a temperature range recited in Claim 1. For the reasons set forth above, Claim 1 is submitted to be patentable over Raab et al. in view of Hakim and Compaq, and further in view of Haddock et al.

When the recitations of Claim 2 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 2 likewise is patentable over Raab et al. in view of Hakim and Compaq, and further in view of Haddock et al.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claim 2 be withdrawn.

Moreover, Applicants respectfully submit that the Section 103 rejections of Claims 1-4, 7, 12, 14, and 17 are not proper rejections. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combinations. None of Raab et al., Hakim, Compaq, or Haddock et al., considered alone or in combination, describe or suggest the claimed combinations. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Raab et al. with Hakim, Compaq, or Haddock et al. because there is no motivation to combine the references suggested in the cited art itself.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejections are based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Raab et al. is cited for teaching a fast Ethernet switch that may be any number of commercially available fast Ethernet switches which support the creation of VLANs and which are available from various manufacturers, such as those conforming to IEEE standard 802.13 or 802.14. Hakim is cited for

teaching RangeLAN2 7510 Ethernet AP, which is a transparent bridge between a wired Ethernet port and a wireless radio interface and has an operating temperature range of -20 to 60 °C. Hakim is also cited for teaching RangeLAN2 740x PC Card is a Type II PCMCIA, which is a transceiver that has an operating temperature range of -20 to 60 °C. Compaq is cited for teaching a Compaq SW5425 Desktop Gigabit Ethernet Switch that operates in an operating environment having a temperature range of 0 to 40 °C. Haddock et al. is cited for teaching a switch including multiple ports coupled via a channel capable of supporting a data transfer rate of one gigabit per second in the transmit direction and one gigabit per second in the receive direction. Since there is no teaching nor suggestion in the cited art for the combinations, the Section 103 rejections appear to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such combinations are impermissible, and for this reason alone, Applicants request that the Section 103 rejections of Claims 1-4, 7, 12, 14, and 17 be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the rejections of Claims 1-4, 7, 12, 14, and 17 under 35 U.S.C. 103(a) be withdrawn.

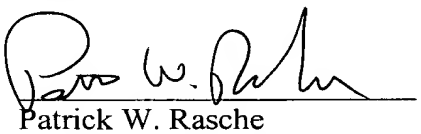
Claim 11 is allowed. Claims 5, 6, 8-10, 13, 15, 16, and 18-20 are objected to as being dependent upon their respective rejected base claims, but are indicated as being allowable if rewritten in independent form including all the limitations of the base claims and any intervening claims.

Claims 5, 6, and 8-10, depend, directly or indirectly, from independent Claim 1, which is allowable over the cited art for the reasons set forth above. When the recitations of Claims 5, 6, and 8-10 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 5, 6, and 8-10 likewise are in condition for allowance.

Claims 13, 15, 16, and 18-20 depend, directly or indirectly, from independent Claim 12, which is allowable over the cited art for the reasons set forth above. When the recitations of Claims 13, 15, 16, and 18-20 are considered in combination with the recitations of Claim 12, Applicants submit that dependent Claims 13, 15, 16, and 18-20 likewise are in condition for allowance.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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